

II

"That since an injunction is to be issued enjoining the use of mineral oil in the defendant's product, no injunction with reference to the label of the product need be entered.

III

"That the plaintiff should recover of and from the defendant herein its costs."

On December 26, 1945, an order was entered permanently enjoining the defendant from introducing or delivering for introduction into interstate commerce popped corn adulterated by reason of its bearing or containing mineral oil or any other inedible oil, or adulterated by reason of the substitution of mineral oil or other inedible oil for edible oil. The defendant was also permanently enjoined from introducing or delivering for introduction into interstate commerce articles of food made and prepared from popped popcorn containing as an ingredient mineral oil or any other nonedible oil.

8832. Adulteration and misbranding of popped popcorn. U. S. v. 145 Cartons of Popcorn (and 131 other seizure actions against popcorn). Default decrees of condemnation. One lot of the product ordered delivered for use as hog feed; remainder ordered destroyed. (F. D. C. Nos. 15998, 15999, 16714, 16715, 16717, 16849, 16870, 16872, 16873, 16894, 16963 to 16965, incl., 16968, 16969, 17213, 17214, 17454, 17485, 17683, 17766 to 17769, incl., 17948 to 17951, incl., 17953 to 17955, incl., 17960, 17961, 17979 to 17982, incl., 18032, 18038 to 18041, incl., 18048, 18058, 18067, 18133, 18135, 18142 to 18144, incl., 18179 to 18183, incl., 18193 to 18198, incl., 18203, 18225, 18233 to 18236, incl., 18239, 18242 to 18246, incl., 18378-A, 18379-A, 18393 to 18395, incl., 18397, 18401, 18403 to 18410, incl., 18412, 18415, 18419 to 18421, incl., 18423 to 18425, incl., 18429, 18431, 18461, 18468, 18469, 18513, 18533, 18539, 18545, 18546, 18559, 18580, 18612 to 18615, incl., 18677, 18681, 18683, 18702, 18740, 18741, 18788 to 18790, incl., 18941 to 18943, incl., 18954, 18959 to 18963, incl., 18997, 19056, 19097, 19239. Sample Nos. 869-H, 870-H, 1060-H, 1108-H to 1110-H, incl., 2690-H to 2692-H, incl., 3924-H, 3925-H, 3927-H, 3928-H, 4591-H to 4593-H, incl., 4595-H, 4646-H, 4866-H, 4867-H, 4869-H to 4871-H, incl., 4873-H to 4886-H, incl., 4895-H, 5005-H, 5006-H, 5026-H, 5031-H, 5034-H, 5037-H, 5203-H to 5208-H, incl., 5506-H, 6944-H to 6946-H, incl., 6949-H, 6950-H, 6960-H, 7313-H, 7317-H, 7318-H, 7394-H, 7743-H, 7923-H to 7929-H, incl., 8079-H, 8143-H, 8144-H, 8225-H, 8271-H, 8272-H, 9266-H, 9267-H, 9276-H, 9649-H, 9783-H, 9784-H, 9789-H, 9790-H, 9808-H to 9811-H, incl., 10328-H, 10367-H, 10375-H, 10624-H to 10627-H, incl., 10642-H, 10652-H, 10653-H, 10666-H, 10670-H, 10690-H, 10944-H to 10950-H, incl., 10956-H, 10965-H, 10989-H, 11073-H to 11075-H, incl., 11275-H, 11600-H, 11668-H, 11726-H, 11866-H, 11868-H, 12061-H, 12062-H, 12091-H, 12209-H, 12211-H, 12238-H, 12240-H, 12300-H, 12329-H, 12354-H, 12431-H to 12433-H, incl., 12484-H, 12833-H, 13070-H, 13071-H, 13171-H to 13173-H, incl., 13493-H, 13496-H, 13498-H, 13769-H, 14046-H, 14217-H, 14426-H, 14571-H, 14827-H, 14828-H, 14830-H, 14853-H, 17642-H, 33102-H, 33104-H, 38202-H, 38206-H, 38919-H to 38923-H, incl., 52517-H, 60019-H.)

LIBELS FILED: Between May 3, 1945, and February 25, 1946, Northern and Southern Districts of Ohio; Eastern, Middle, and Western Districts of Pennsylvania; Northern, Southern, and Western Districts of New York; Eastern and Western Districts of Michigan; Eastern and Western Districts of Kentucky; District of Massachusetts; District of Rhode Island; Southern District of West Virginia; District of Vermont; District of Maine; District of Connecticut; District of New Hampshire; District of New Jersey; Western District of North Carolina; and Western District of South Carolina.

ALLEGED SHIPMENT: Between the approximate dates of April 9 and November 28, 1945, by the Better Taste Popcorn Co., from Anderson and Middletown, Ind.

PRODUCT: 11,415 cartons and 3,456 dozen bags of popcorn. Some of the cartons contained 24 bags of popcorn, while other cartons contained 30 bags, 36 bags, 42 bags, 48 bags, 60 bags, or 72 bags of popcorn. The bags contained $\frac{3}{4}$ ounce, 2 ounces, or $3\frac{1}{4}$ ounces of popcorn. The product was located at Dayton, Hamilton, Columbus, Cincinnati, Mansfield, Youngstown, and Amelia, Ohio; Worcester, Somerville, Boston, Fall River, and Lawrence, Mass.; Providence, R. I.; Burlington, Vt.; Charleston, W. Va.; Pittsburgh, Ind.; Johnstown, Grove City, McKeesport, Altoona, Erie, New Castle, Williamsport, Scranton, Bradford, Towanda, Philadelphia, Souderton, Osceola Mills, Lehigh, West Brownsville, Catasauqua, Norristown, Bethlehem, and Lancaster, Pa.; Flint, Grand Rapids, Saginaw, Kalamazoo, and Muskegon, Mich.; Buffalo, Elmira, Jamestown, Auburn, Gloversville, Oneonta, Binghamton, Rome, Watertown, Ogdensburg, Newburg, Hornell, and Albany, N. Y.; Russellville, Lexington, and Pikeville, Ky.; Bangor and Presque Isle, Maine; Waterbury, New Haven, and Bridgeport, Conn.; Franklin and Manchester, N. H.; Trenton, Newark, Bridgeton, South

River, and Perth Amboy, N. J.; Shelby, Lincolnton, Hickory, and Hendersonville, N. C.; and Greenville, S. C.

Analyses disclosed that the product contained mineral oil and little or no edible oil. Examination showed that one lot of the product was short-weight.

LABEL, IN PART: "Popcorn * * * Ingredients: Popcorn, Edible Oil, Salt, U. S. Certified Color," "Popcorn Ingredients: Popcorn, Mineral Oil (non-nutritive) Salt, U. S. Certified Color," or "Popcorn Ingredients: Popcorn, Mineral Oil, Salt, U. S. Certified Color."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the popcorn contained added mineral oil, a deleterious substance which might have rendered the product injurious to health; Section 402 (b) (1), a valuable constituent, an edible oil, had been in whole or in part omitted from the article; Section 402 (b) (2), a substance consisting of popped corn with artificially colored non-nutritive mineral oil had been substituted in whole or in part for popcorn with edible oil; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), artificially colored mineral oil had been mixed and packed with the product so as to reduce its quality or strength and make it appear better or of greater value than it was.

Misbranding, Section 403 (e) (2), one lot of the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: Between May 31, 1945, and March 26, 1946, no claimant having appeared, judgments of condemnation were entered and it was ordered that one lot of the popcorn be delivered to a public institution, for use as hog feed, and that the other lots be destroyed.

8833. Adulteration of popcorn. U. S. v. 69 Bags, 96 Bags, and 165 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15596. Sample Nos. 28538-H to 28540-H, incl.)

LABEL FILED: March 16, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about December 18, 1944, and January 11, 1945, from Caldwell, Idaho.

PRODUCT: 330 100-pound bags of popcorn at Seattle, Wash., in the possession of the Heck Specialty Co. This product had been stored under insanitary conditions after shipment. Some of the bags were roden-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent hairs.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it might have become contaminated with filth.

DISPOSITION: March 29, 1945. The Heck Specialty Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

8834. Adulteration of shelled popcorn. U. S. v. 52 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15660. Sample No. 18715-H.)

LABEL FILED: March 24, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about January 25, 1945, by John B. Mortenson and Co., from Chicago, Ill.

PRODUCT: 52 100-pound bags of shelled popcorn at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets.

DISPOSITION: May 10, 1945. The True Popcorn Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reprocessing in order to remove all filthy material, under the supervision of the Food and Drug Administration.

8835. Adulteration of popcorn. U. S. v. 100 Bags of Popcorn. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15755. Sample No. 31039-H.)

LABEL FILED: March 30, 1945, District of Arizona.

ALLEGED SHIPMENT: On or about March 5, 1945, by the Morris Rosenberg Co., from Los Angeles, Calif.